



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 2/4/2004, by Kathleen L. Wojcik

SYNOPSIS AS INTRODUCED:

35 ILCS 5/303	from Ch. 120, par. 3-303
35 ILCS 5/710	from Ch. 120, par. 7-710

Amends the Illinois Income Tax Act. Provides that payments made after December 31, 2004 of winnings from gambling games conducted on a riverboat licensed under the Riverboat Gambling Act are allocable to this State. Requires payors to withhold such winnings if they are \$5,000 or more. On January 1, 2005 changes from \$1,000 to \$5,000 the threshold above which withholding is required for lottery winnings. Effective immediately.

LRB093 19192 SJM 46526 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning taxes.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Sections 303 and 710 as follows:

6 (35 ILCS 5/303) (from Ch. 120, par. 3-303)

7 Sec. 303. Nonbusiness income of persons other than
8 residents.

9 (a) In general. Any item of capital gain or loss, ~~and~~ any
10 item of income from rents or royalties from real or tangible
11 personal property, interest, dividends, and patent or
12 copyright royalties, and prizes awarded under the Illinois
13 Lottery Law and winnings from gambling games conducted on a
14 riverboat licensed under the Riverboat Gambling Act, to the
15 extent such item constitutes nonbusiness income, together with
16 any item of deduction directly allocable thereto, shall be
17 allocated by any person other than a resident as provided in
18 this Section.

19 (b) Capital gains and losses. (1) Real property. Capital
20 gains and losses from sales or exchanges of real property are
21 allocable to this State if the property is located in this
22 State.

23 (2) Tangible personal property. Capital gains and losses
24 from sales or exchanges of tangible personal property are
25 allocable to this State if, at the time of such sale or
26 exchange:

27 (A) The property had its situs in this State; or

28 (B) The taxpayer had its commercial domicile in this State
29 and was not taxable in the state in which the property had its
30 situs.

31 (3) Intangibles. Capital gains and losses from sales or
32 exchanges of intangible personal property are allocable to this

1 State if the taxpayer had its commercial domicile in this State
2 at the time of such sale or exchange.

3 (c) Rents and royalties. (1) Real property. Rents and
4 royalties from real property are allocable to this State if the
5 property is located in this State.

6 (2) Tangible personal property. Rents and royalties from
7 tangible personal property are allocable to this State:

8 (A) If and to the extent that the property is utilized in
9 this State; or

10 (B) In their entirety if, at the time such rents or
11 royalties were paid or accrued, the taxpayer had its commercial
12 domicile in this State and was not organized under the laws of
13 or taxable with respect to such rents or royalties in the state
14 in which the property was utilized. The extent of utilization
15 of tangible personal property in a state is determined by
16 multiplying the rents or royalties derived from such property
17 by a fraction, the numerator of which is the number of days of
18 physical location of the property in the state during the
19 rental or royalty period in the taxable year and the
20 denominator of which is the number of days of physical location
21 of the property everywhere during all rental or royalty periods
22 in the taxable year. If the physical location of the property
23 during the rental or royalty period is unknown or
24 unascertainable by the taxpayer, tangible personal property is
25 utilized in the state in which the property was located at the
26 time the rental or royalty payer obtained possession.

27 (d) Patent and copyright royalties.

28 (1) Allocation. Patent and copyright royalties are
29 allocable to this State:

30 (A) If and to the extent that the patent or copyright is
31 utilized by the payer in this State; or

32 (B) If and to the extent that the patent or copyright is
33 utilized by the payer in a state in which the taxpayer is not
34 taxable with respect to such royalties and, at the time such
35 royalties were paid or accrued, the taxpayer had its commercial
36 domicile in this State.

1 (2) Utilization.

2 (A) A patent is utilized in a state to the extent that it
3 is employed in production, fabrication, manufacturing or other
4 processing in the state or to the extent that a patented
5 product is produced in the state. If the basis of receipts from
6 patent royalties does not permit allocation to states or if the
7 accounting procedures do not reflect states of utilization, the
8 patent is utilized in this State if the taxpayer has its
9 commercial domicile in this State.

10 (B) A copyright is utilized in a state to the extent that
11 printing or other publication originates in the state. If the
12 basis of receipts from copyright royalties does not permit
13 allocation to states or if the accounting procedures do not
14 reflect states of utilization, the copyright is utilized in
15 this State if the taxpayer has its commercial domicile in this
16 State.

17 (e) Illinois lottery and gambling winnings prizes. Prizes
18 awarded under the "Illinois Lottery Law", ~~approved December 14,~~
19 ~~1973,~~ are allocable to this State. Payments made after December
20 31, 2004 of winnings from gambling games conducted on a
21 riverboat licensed under the Riverboat Gambling Act are
22 allocable to this State.

23 (f) Taxability in other state. For purposes of allocation
24 of income pursuant to this Section, a taxpayer is taxable in
25 another state if:

26 (1) In that state he is subject to a net income tax, a
27 franchise tax measured by net income, a franchise tax for the
28 privilege of doing business, or a corporate stock tax; or

29 (2) That state has jurisdiction to subject the taxpayer to
30 a net income tax regardless of whether, in fact, the state does
31 or does not.

32 (g) Cross references. (1) For allocation of interest and
33 dividends by persons other than residents, see Section
34 301(c)(2).

35 (2) For allocation of nonbusiness income by residents, see
36 Section 301(a).

1 (Source: P.A. 79-743.)

2 (35 ILCS 5/710) (from Ch. 120, par. 7-710)

3 Sec. 710. Withholding from lottery and gambling winnings.

4 (a) In General.

5 (1) Any person making a payment to a resident or
6 nonresident of winnings under the Illinois Lottery Law and
7 not required to withhold Illinois income tax from such
8 payment under Subsection (b) of Section 701 of this Act
9 because those winnings are not subject to Federal income
10 tax withholding, must withhold Illinois income tax from
11 such payment at a rate equal to the percentage tax rate for
12 individuals provided in subsection (b) of Section 201,
13 provided that withholding is not required if such payment
14 of winnings is less than \$5,000 (\$1,000, for payments made
15 before January 1, 2005).

16 (2) Any person making a payment after December 31, 2004
17 to a resident or nonresident of winnings from gambling
18 games conducted on a riverboat licensed under the Riverboat
19 Gambling Act, and not required to withhold Illinois income
20 tax from such payment under subsection (b) of Section 701
21 of this Act because those winnings are not subject to
22 federal income tax withholding, must withhold Illinois
23 income tax from such payment at a rate equal to the
24 percentage tax rate for individuals provided in subsection
25 (b) of Section 201, provided that withholding is not
26 required if such payment of winnings is less than \$5,000.

27 (b) Credit for taxes withheld. Any amount withheld under
28 Subsection (a) shall be a credit against the Illinois income
29 tax liability of the person to whom the payment of winnings was
30 made for the taxable year in which that person incurred an
31 Illinois income tax liability with respect to those winnings.

32 (Source: P.A. 85-731.)

33 Section 99. Effective date. This Act takes effect upon
34 becoming law.